

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

The Trustees of the Minnesota and North Dakota
Bricklayers and Allied Craftworkers Fringe Benefit
Funds,

Civil File No. 06-1324 (DWFAJB)

Plaintiffs,

v.

ORDER

E & R Masonry Construction, Inc., a foreign
corporation not qualified to do business in the
State of Minnesota; and Roberto A. Sanchez,

Defendants.

Andrew E. Staab, Esq., and Stephen C. Kelly, Esq., Rosene, Haugrud & Staab, Chartered,
counsel for Plaintiffs.

James F. Baldwin, Esq., Moss & Barnett, PA, counsel for Defendants.

This matter came on for hearing before the Court on June 30, 2006, on Plaintiffs' motion for entry of Defendants' default, for interim default judgment in the amount of \$52,438.99, and for an Injunction. For the first time in the case, an attorney appeared on behalf of Defendants—namely, James F. Baldwin, Esq.—who had been consulted the day before, on June 29, 2006. While retention by Defendants of an attorney on June 29, 2006, was untimely, the Court finds and concludes that the interests of justice require this Court to continue this matter until September 1, 2006, over the objection of Plaintiffs' counsel, for the purpose of trying to resolve and settle the matter. In the event the case is not resolved or otherwise settled, the Court will set a hearing in the Order below for 8:30 a.m.

on September 1, 2006. Plaintiffs also moved the Court for a bond in the amount of \$52,438.99.

Based upon the presentations of counsel, the Court having reviewed the contents of the file in this matter, and being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. **Hearing date.** The above-entitled matter is continued until September 1, 2006, at 8:30 a.m. To that extent, Plaintiffs' motion to enter a default judgment is respectfully denied by the Court.

2. Plaintiffs' request for a bond in the amount of \$52,438.99 is respectfully denied for the reasons stated off the bench on June 30, 2006.

3. **Attorney Fees and Costs.** Plaintiffs' counsel was directed by the Court, off the bench on June 30, 2006, to submit an affidavit setting forth the attorney fees and costs incurred for the hearing on June 30, 2006. Upon receipt of those fees and costs, Defendants will be directed to pay those costs and fees by not later than July 17, 2006. In the event Defendants fail to do so, Plaintiffs may request that the matter be set on immediately for a default hearing.

Dated: July 3, 2006

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Judge